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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/943,255 | 08/30/2001 | James G. Anderson | SP01-249 | 8294 |

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CORNING INCORPORATED
SP-TI-3-1
CORNING, NY 14831

EXAMINER

COLAIANNI, MICHAEL

ART UNIT PAPER NUMBER

1731

DATE MAILED: 06/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/943,255

Applicant(s)

ANDERSON ET AL.

Examiner

Michael P Colaianni

Art Unit

1731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-22 and 24-33 is/are allowed.
- 6) ☒ Claim(s) 23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. 6) ☐ Other: _____

Information Disclosure Statement

The information disclosure statement filed August 30, 2001 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each U.S. and foreign patent; each publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed.

The lined-through references have NOT be considered. No copy was provided for the following references: Canada 1156467 and J.E. Midwinter et al., "Fiber Pulling by Double-Crucible Apparatus", Optical Fibers for Transmission pp. 167-179.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 23 is rejected under 35 U.S.C. 102(b) as being anticipated by Van Damme 3620707.

Van Damme teaches forming a glass tube (crucible) having a non-circular cross section with a hole in one end of the crucible (col. 1, lines 4-10, 14-18, col. 2, lines 50-60). The rod extending from the forming member keeps the upper part of the tube open thereby forming an orifice in the upper portion (Fig. 4, ref. 78, 72; col. 2, lines 50-60). Moreover, claim 23 is a product-by-process claim. As such, claim 23 is judged based on the structure imparted to the product by the process. However, the process used is not

given weight in determining the patentability of the product-by-process claim (See, MPEP §2113). Thus, the claim 23 merely requires a crucible having a formed end with an orifice in one end. These limitations are taught by Van Damme's glass tube (crucible). Crucible has been broadly construed to be a container for holding material.

Allowable Subject Matter

Claims 1-22, 24-33 is allowed.

The following is an examiner's statement of reasons for allowance: none of the prior art examined taught or fairly suggested a method of forming a crucible including, in combination with the recited steps of claims 1, 25 and 26, the steps of contacting an interior surface of the closed end with a forming tool, thereby altering the interior surface of the closed end to form at least one section with a set wall thickness and manipulating the at least one section of the closed end to form an orifice. It is the combination of the step of altering the interior surface of the closed end with the step of forming the orifice in the closed end that makes the claim allowable.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael P Coiaanni whose telephone number is 703-

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305-5493. The examiner can normally be reached on Monday to Thursday and alternate Fridays from 9:00 AM to 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Griffin can be reached on 703-308-1164. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7115 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0651.



Michael P Colaianni
Primary Examiner
Art Unit 1731

MPC
June 12, 2003

**MICHAEL COLAIANNI
PRIMARY EXAMINER**